

EXHIBIT A



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

November 22, 2006

By Federal Express

Roland R. Acevedo, Esq.
Seiff Kretz & Abercrombie
444 Madison Avenue
30th Floor
New York, NY 10022

Re: United States v. Yaw Nketia
06 Cr. 893 (KMK)

Dear Mr. Acevedo:

This letter provides initial discovery pursuant to Rule 16(a) of the Federal Rules of Criminal Procedure, and seeks reciprocal discovery.

Disclosure by the Government

Based on your request, I am enclosing copies of documents bearing control numbers 1 through 1149. The tax returns and return information included in this discovery are being produced subject to the protective order signed by the Court on November 17, 2006.

Included in the production are draft transcripts of undercover recordings made at the defendant's office. See Document Nos. 375-428. As we discussed and agreed, these draft transcripts are being provided to you as a courtesy and subject to your agreement that they will not be used in Court for any purpose. I had intended to produce today copies of the actual audio recordings, but as a result of technical difficulties in reproducing these recordings, I will not be able to provide them to you until next week.

The Government recognizes its obligations under Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, and will provide timely disclosure if any such material comes to light. The Government will provide Giglio material, if any, at the time it provides prior statements of witnesses pursuant to Title 18, United States Code, Section 3500.

Roland R. Acevedo, Esq.
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November 22, 2006

Disclosure By the Defendant

In light of your request for the foregoing discovery, the Government hereby requests reciprocal discovery under Fed. R. Crim. P. 16(b). Specifically, we request that you allow inspection and copying of: (1) any books, or copies or portions thereof, which are in the defendant's possession, custody or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial; and (2) any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, which are in the defendant's possession or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial or which were prepared by a witness whom the defendant intends to call at trial.

The Government also requests that the defense disclose prior statements of witnesses it will call to testify. See Fed. R. Crim. P. 26.2; United States v. Nobles, 422 U.S. 225 (1975). We request that such material be provided on the same basis upon which we agree to supply the defendant with 3500 material relating to Government witnesses.

We wish to remind you that Fed. R. Crim. P. 12.2 requires you to provide the Government with written notice if the defendant intends to rely on the defense of insanity at the time of the alleged crime or intends to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he had the mental state required for the offenses charged.

We also wish to remind you that Fed. R. Crim. P. 12.3(a) requires you to provide the Government with written notice if the defendant intends to claim a defense of actual or believed exercise of public authority on behalf of a law enforcement or Federal intelligence agency at the time of the alleged crime.

The Government requests a response to our Rule 12.2 and 12.3 demands within the time period allowed by the Court for the filing of motions.

Sentence Reduction for Acceptance of Responsibility

Please be advised that unless a disposition is reached on a timely basis prior to trial, this Office reserves the right to oppose both the two-point reduction under the Sentencing Guidelines for acceptance of responsibility, U.S.S.G. § 3E1.1(a), and the additional one-point reduction available for defendants who plead prior to the Government's initiation of trial preparations, U.S.S.G. § 3E1.1(b)(2), in the event your client has not entered a plea of guilty sufficiently in advance of trial.

Roland R. Acevedo, Esq.
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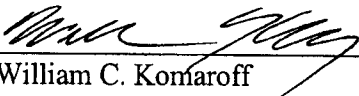
November 22, 2006

Please contact me at your earliest convenience concerning the possible disposition of this matter or any further discovery which you may request.

Very truly yours,

MICHAEL J. GARCIA
United States Attorney

By:



William C. Komaroff
Assistant United States Attorney
Tel: (212) 637-1111

Enclosures

EXHIBIT B



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

February 16, 2007

By Fax: (212) 371-6883

Roland R. Acevedo, Esq.
Seiff Kretz & Abercrombie
444 Madison Avenue
30th Floor
New York, NY 10022

Re: United States v. Yaw Nketia
06 Cr. 893 (KMK)

Dear Mr. Acevedo:

The Indictment in this case alleges that the defendant engaged in a fraudulent scheme from in or about at least 2000, through in or about 2003, to prepare materially false tax returns. As a result, it is the Government's position that evidence of the existence of such a scheme – beyond evidence relating directly to the fourteen specific false tax returns charged as Counts One through Fourteen in the Indictment – is probative of the existence of such a scheme, and is directly relevant to prove the charges in the Indictment.

Nonetheless, and in an abundance of caution, should the Court conclude that any such evidence is covered by Rule 404(b), this letter provides disclosure concerning the general nature of certain evidence the Government may seek to introduce at trial. Without conceding its applicability, the evidence described below would be admissible under Rule 404(b) because it is probative of the defendant's motive, intent, knowledge and/or absence of mistake.

The Government may offer evidence of the following:

1. An undercover operation conducted at the defendant's office on April 9 and April 10, 2003;
2. Tax returns prepared by the defendant for tax years 1999 through 2003, and analyses thereof, that reflect patterns of false statements consistent with the specific false returns charged in Indictment;

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February 16, 2007


3. The number of tax returns prepared by the defendant for each of the tax years 1998 through 2004; and
4. Refund rates for returns prepared by the defendant in each of the tax years 1998 through 2004.

In addition, the Government hereby provides notice that it intends to offer expert testimony from an IRS revenue agent concerning the materiality of misstatements on the specific tax returns charged in the Indictment. In addition, the Government expects to offer the analyses of other returns prepared by the defendant through this same witness. The Government is still in the process of identifying who that witness will be and will make the disclosures required by Rule 16(a)(1)(G) as soon as the information becomes available.

Very truly yours,

MICHAEL J. GARCIA
United States Attorney

By:



William C. Komaroff
Assistant United States Attorney
Tel: (212) 637-1111

EXHIBIT C



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

March 2, 2007

By Federal Express - For Saturday Delivery

Roland R. Acevedo, Esq.
Seiff Kretz & Abercrombie
444 Madison Avenue
30th Floor
New York, NY 10022

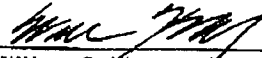
Re: United States v. Yaw Nketia
06 Cr. 893 (KMK)

Dear Mr. Acevedo:

Enclosed please find 4 binders containing the Government Exhibits that we have marked to date. As we continue to prepare for trial and meet with our civilian witnesses we expect to mark additional exhibits related to those witnesses. In addition, we intend to offer a materiality analysis regarding the indicted returns and a number of summary charts, which we will provide to you once they are completed. As a courtesy, we have enclosed an Exhibit List describing the enclosed documents. Please feel free to call me if you have any questions.

Very truly yours,

MICHAEL J. GARCIA
United States Attorney

By: 
William C. Komaroff
Todd Blanche
Assistant United States Attorneys
Tel: (212) 637-1111/2494

Enclosures

United States v. Yaw Nketia, 06 Cr. 893 (KMK)Government Exhibit List

GX No.	Description	Witness	Admitted
	<u>Indicted Tax Returns</u>		
GX 1	Naana Anson (client 1) 2000 tax year return (certified copy)		
GX 2	Beatrice Benson (client 2) 2000 tax year return (certified copy)		
GX 3	Christiana Boakye (client 3) 2000 tax year return (certified copy)		
GX 4	Joseph Gono (client 4) 2000 tax year return (certified copy)		
GX 5	Klenam Anatsui (client 5) 2000 tax year return (certified copy)		
GX 6	Felicia Amponsah (client 6) 2000 tax year return (certified copy)		
GX 7	Felicia Amponsah (client 6) 2001 tax year return (certified copy)		
GX 8	Comlan Agbodohfalscha (client 7) 2002 tax year return (certified copy)		
GX 9	Peterson Appiahackah (client 8) 2002 tax year return (certified copy)		
GX 10	Prince Bonsu (client 9) 2002 tax year return (certified copy)		
GX 11	Edward Campbell (client 10) 2002 tax year return (certified copy)		
GX 12	Frank Ndri (client 11) 2002 tax year return (certified copy)		
GX 13	Frank Osafo (client 12) 2002 tax year return (certified copy)		
GX 14	Barba Yamson (client 13) 2002 tax year return (certified copy)		
GX 15			
	<u>Social Security Administration Documents</u>		
GX 16	Social Security Certification of Extract From Records (deceased dependents on indicted tax returns)		
GX 17			
GX 18			
GX 19			

March 2, 2007 (5:02pm)

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GX No.	Description	Witness	Admitted
	<u>Undercover Meeting with Nketia</u>		
GX 20	Photo of Nketia Store front		
GX 21	Floor plan of Nketia Office		
GX 22	Video frame grab – Yaw Nketia		
GX 23	April 9, 2003 audio recording of UC meeting with Nketia (full recording)		
GX 23-A	April 9, 2003 audio recording of UC meeting with Nketia (excerpt of GX 23)		
GX 23-T	Transcript of excerpted April 9, 2003 UC meeting with Nketia		
GX 24	April 10, 2003 audio recording of UC meeting with Nketia (full recording)		
GX 24-A	April 10, 2003 audio recording of UC meeting with Nketia (excerpt of GX 24)		
GX 24-T	Transcript of excerpted April 10, 2003 UC meeting with Nketia		
GX 25	Undercover W-2 form		
GX 26	Undercover work sheets prepared by Nketia		
GX 27	Post-It notes and Nketia business card		
GX 28	Undercover federal tax return prepared by Nketia		
GX 29	Undercover state tax return prepared by Nketia		
GX 30	Undercover false dependent information		
GX 31			
GX 32			
GX 33			
GX 34			
	<u>Nketia Preparer Information</u>		
GX 35	Nketia e-file Application Information: Application Summary		
GX 36	Rejected ELF Return Spread Sheet (tax year 2002)		

March 2, 2007 (5:02pm)

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101AL P.05

GX No.	Description	Witness	Admitted
GX 37	Electronic Return File Specifications and Record Layouts for Individual Income Tax Returns, Tax Year 2002, Attachment 1		
GX 38	Collection of Nketia filed tax returns for tax year 2002 for filers listed on GX 36		
GX 39	tax year 1998 Nketia preparer return summary		
GX 40	tax year 1999 Nketia preparer return summary		
GX 41	tax year 2000 Nketia preparer return summary		
GX 42	tax year 2001 Nketia preparer return summary		
GX 43	tax year 2002 Nketia preparer return summary		
GX 44	tax year 2003 Nketia preparer return summary		
GX 45	tax year 2004 Nketia preparer return summary		
GX 46	tax year 2005 Nketia preparer return summary		
GX 47			
GX 48			
GX 49			
	<u>Other Civilian Witness Exhibits</u> [GX 50-100 reserved]		
	<u>Charts and Summaries</u> [GX 101 ⇨]		

March 2, 2007 (5:02pm)

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212 3716883 P.05

SEIFF KRETZ

MAR-06-2007 13:53

EXHIBIT D

ion Name: DLS0149001 Date: 1/7/2002 Time: 10:21:41 AM

JE 199904-7845347 I, 199812, 1040SM
 PARER TIN: 047-84-5347

OF RETURNS PREPARED: 264

SUMMARY

PARER ENTITY INFO:
 NKETIA

MOSHOLU PKWY S APT 13F
 REFUND RETURNS: 97
 EIC RETURNS: 62
 ESSING YEAR: 1999

BRONX
 # OF REFUND RETURNS: 257
 # OF EIC RETURNS: 166

AGES AVAILABLE: 66
 HOURS AVAILABLE: 4



tion Name: DLS0149001 Date: 1/7/2002 Time: 10:22:02 AM

IE 200004-7845347 I,199912,,1040SM SUMMARY

ARER TIN: 047-84-5347 # OF RETURNS PREPARED: 760

OCIATED TIN:

ARER ENTITY INFO:

NKETIA

MOSHOLU PKWY S APT 13F BRONX NY 10468-1142

REFUND RETURNS: 96 # OF REFUND RETURNS: 730

EIC RETURNS: 66 # OF EIC RETURNS: 503

ESSING YEAR: 2000

GES AVAILABLE: 190
OUPS AVAILABLE: 10



ation Name: DLS0149001 Date: 1/7/2002 Time: 9:06:05 AM

RYUE 2001047-84-5347I,200012,,1040SM

OF RETURNS PREPARED: 1436

SUMMARY

REPARER TIN:

047-84-5347

SSOCIATED TIN:

P00216973

REPARER ENTITY INFO:

W NKETIA

) W MOSHOLU PKWY S APT 13F

BRONX

NY 10468-1142

OF REFUND RETURNS: 97

OF REFUND RETURNS: 1397

OF EIC RETURNS: 60

OF EIC RETURNS: 865

PROCESSING YEAR: 2001

PAGES AVAILABLE: 359
GROUPS AVAILABLE: 18



SECTION NAME: 2002P00216973I
RPVUE 2002P00216973I SUMMARY
PREPARER TIN: P00216973I # OF RETURNS PREPARED: 1822
ASSOCIATED TIN: 047845347
PREPARER ENTITY INFO:
YAW NKETIA
40 W MOSHOLU PKWY S APT 13F BRONX NY 10468-1142
% OF REFUND RETURNS: 97 # OF REFUND RETURNS: 1774
% OF EIC RETURNS: 57 # OF EIC RETURNS: 1053
PROCESSING YEAR: 2002

PAGES AVAILABLE: 456
GROUPS AVAILABLE: 23



Station Name: WHF970 Date: 09/23/2004 Time: 3:49:15 PM

RPVUE 2003047-84-5347I

SUMMARY

PREPARER TIN: 047-84-5347

OF RETURNS PREPARED: 3974

ASSOCIATED TIN: P00216973

PREPARER ENTITY INFO:

NKETIA

40 W MOSHOLU PKWY APT 13F

BRONX

NY 10468-1142

% OF REFUND RETURNS: 95

OF REFUND RETURNS: 3799

% OF EIC RETURNS: 46

OF EIC RETURNS: 1833

PROCESSING YEAR: 2003

PAGES AVAILABLE: 994

GROUPS AVAILABLE: 50



Station Name: WHT970 Date: 09/23/2004 Time: 3:49:33 PM

RPVUE 2004047-84-5347I

SUMMARY

PREPARER TIN: 047-84-5347

OF RETURNS PREPARED: 1673

ASSOCIATED TIN: P00216973

PREPARER ENTITY INFO:

YAW NKETIA

40 W MOSHOLU PKWY APT 13F

BRONX

NY 10468-1142

% OF REFUND RETURNS: 91

OF REFUND RETURNS: 1524

% OF EIC RETURNS: 50

OF EIC RETURNS: 846

PROCESSING YEAR: 2004

PAGES AVAILABLE: 419

GROUPS AVAILABLE: 21

GOVERNMENT
EXHIBIT

44

05 Cr. 893 (KMK)(ID)

Station Name: W Wuestefeld Date: 02/28/2007 Time: 8:15:56 AM

RPVUE 2005047-84-5347I

SUMMARY

PREPARER TIN: 047-84-5347

OF RETURNS PREPARED: 1571

ASSOCIATED TIN: P00216973

PREPARER ENTITY INFO:

YAW NKETIA

40 W MOSHOLU PKWY S APT 13F

BRONX

NY 10468-1142

% OF REFUND RETURNS: 90

OF REFUND RETURNS: 1420

% OF EIC RETURNS: 48

OF EIC RETURNS: 765

PROCESSING YEAR: 2005

PAGES AVAILABLE: 393

GROUPS AVAILABLE: 20



Station Name: W Wuestefeld Date: 02/28/2007 Time: 8:15:47 AM

RPVUE 2006047-84-5347I

SUMMARY

PREPARER TIN: 047-84-5347
ASSOCIATED TIN: P00216973

OF RETURNS PREPARED: 1512

PREPARER ENTITY INFO:

YAW NKETIA

40 W MOSHOLU PKWY S APT 13F

BRONX

NY 10468-1142

% OF REFUND RETURNS: 91

OF REFUND RETURNS: 1377

% OF EIC RETURNS: 51

OF EIC RETURNS: 772

PROCESSING YEAR: 2006

PAGES AVAILABLE: 378

GROUPS AVAILABLE: 19

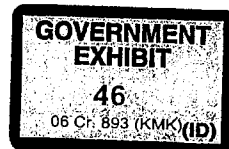


EXHIBIT E

SEIFF KRETZ & ABERCROMBIE

CHARLES D. ABERCROMBIE*
WALTER A. KRETZ, JR.
ERIC A. SEIFF

MARIANA OLENKO

*ALSO ADMITTED IN CT

444 MADISON AVENUE
30TH FLOOR
NEW YORK, N.Y. 10022-6926
(212) 371-4500
FAX (212) 371-6883

ROLAND R. ACEVEDO
OF COUNSEL

March 2, 2007

BY HAND and ECF

Hon. Kenneth M. Karas
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *United States v. Yaw Nketia* 06 Cr. 893 (KMK)

Dear Judge Karas:

Defendant Yaw Nketia respectfully submits the following letter in lieu of a formal motion *in limine*. Defendant seeks an order, pursuant to Rules 402, 403 and 404(b) of the Federal Rules of Evidence, precluding the Government from introducing non-relevant, prejudicial and misleading evidence of uncharged crimes that would confuse and mislead the jury, unnecessarily lengthen the trial and impermissibly broaden the scope of the Indictment.

Background

Defendant, the owner of Caesar Tax & Brokerage Services, is charged in a 14-count Indictment with preparing federal income tax returns and supporting schedules that contained false and fraudulent information, including false dependents and overstated deductions. Ind. ¶ 3. The Indictment alleges that as a result of the inclusion of this false and fraudulent information on the returns and schedules, defendant generated earned income tax credits and tax refunds to which clients were not entitled. *Id.* Although the Indictment alleges that the fraudulent scheme took place "from in or about at least 2000, through in or about 2003," the tax return filings in the 14-counts are limited to a two year period, from 2000 through 2002. *Id.* ¶¶ 3, 4.

SEIFF KRETZ & ABERCROMBIE

Hon. Kenneth M. Karas
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The Government has provided defense counsel with notice that it may offer the following 404(b) evidence at trial:

1. an undercover operation conducted at the defendant's office on April 9 & 10, 2003;
2. tax returns prepared by defendant for tax years 1999 through 2003, and analyses thereof that reflect a pattern of false statements consistent with the false returns charged in the Indictment;
3. the number of tax returns prepared by defendant for each of the tax years 1998 through 2004; and
4. refund rates for returns prepared by defendant in each of the tax years 1998 through 2004.

For the reasons set forth below, defendant seeks an Order precluding the Government on its case-in-chief from introducing non-relevant, prejudicial and misleading evidence of uncharged crimes that would expand the scope of the Indictment, unnecessarily lengthen the trial, confuse and mislead the jury and attempt to show that defendant has a propensity to commit criminal conduct.

Argument

The purpose of the Federal Rules of Evidence is to "secure fairness in the administration" of the law so that "the truth may be ascertained and proceedings justly determined." Fed. R. Evid. 102. To ensure that proceedings are justly determined, "[e]vidence which is not relevant is not admissible." Fed. R. Evid. 402. "Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination more probable or less probable than it would be without the evidence." Fed. R. Evid. 401.

Rule 403 provides that "[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by

SEIFF KRETZ & ABERCROMBIE

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U.S. v. Nketia 06 Cr. 893
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considerations of undue delay, waste of time or needless presentation of cumulative evidence." Fed. R. Evid. 403. "Under Rules 401 and 403 of the Federal Rules of Evidence, in order for evidence to be admissible it must be relevant and its prejudicial effect must not substantially outweigh its probativeness." *United States v. Harvey*, 991 F.2d 981, 996 (2d Cir. 1993).

Rule 404(b) provides that evidence of other crimes, wrongs or acts is not admissible to prove the character of the defendant in order to show action in conformity therewith. Fed. R. Evid. 404(b). Such evidence may be admissible, however, as proof of motive, opportunity, intent, preparation, plan, knowledge, identity or absence of mistake or accident. *Id.*

The Second Circuit uses a three-prong test to determine whether evidence of extrinsic acts is admissible under Rule 404(b). *United States v. Mickens*, 926 F.2d 1323, 1328 (2d Cir. 1991). As a general rule, other crimes evidence is admissible unless it is introduced for the sole purpose of showing defendant's bad character, it is not relevant under Rule 402, or it is overly prejudicial under Rule 403. *Id.*

I. The April 2003 Undercover Operation

On April 9 and 10, 2003, IRS agents conducted an undercover operation at defendant's office that was recorded on audio and video tape. An IRS agent posed as Jeanine Andrade, who claimed that she was from Nigeria and had two children who did not reside with her in the United States. During the April 9th operation, defendant informed Ms. Andrade that because her children did not reside in the United States she could not claim them as dependents. Defendant suggested that Ms. Andrade may be able to claim someone else's dependent children on her tax return if that person had not previously claimed the children on his or her tax return. On April 10th, the undercover agent returned to defendant's office and a tax return was submitted using the fictitious name and claiming two dependent "foster children." Defendant was not charged in connection with filing the Andrade tax return.